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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,826	03/06/2006	Kenichi Miyoshi	L9289,06115	2110
53989	7590	04/01/2009		
Dickinson Wright PLLC James E. Ledbetter, Esq. International Square 1875 Eye Street, N.W., Suite 1200 Washington, DC 20006			EXAMINER BERHANE, YOSIEF H	
			ART UNIT 2419	PAPER NUMBER
			MAIL DATE 04/01/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,826

Applicant(s)

MIYOSHI, KENICHI

Examiner

YOSIEF BERHANE

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Claims 7-12 have been examined and are pending.

Response:

2. On page 4 of Applicants Response, regarding claims 1-6, applicant remarks that claims 1-6 have been cancelled in favor of new claims 7-12.

Furthermore, on Page 4-5, regarding new claim 7, applicant argues:

The Office Action acknowledges that Dutnall does not disclose adding a delay to a packet that is of a particular detected type (see Office Action first of two sections 3, third paragraph). To overcome this deficiency, the Office Action proposes that Sen disclose delaying data communication to provide better quality for voice communication, since voice communication is delay intolerant (see first of two sections 3, fourth and fifth paragraphs).

However, Sen's disclosure is opposite to the Applicant's claimed subject matter. As acknowledged in the Office Action, Sen discloses delaying a detected non-speech packet, whereas the claimed subject matter delays a detected speech packet. Moreover, as acknowledged in the Office Action, Sen discloses that speech packets are intolerant to delay; thus, it is submitted that a skilled artisan would find no motivation within Sen's teachings to achieve the claimed subject matter of delaying a detected speech packet.

Applicant arguments are persuasive but moot in view of the new grounds of rejection below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Publication 2004/0022237 to Elliott et al. (hereinafter Elliott) and further in view of Patent 7,266,127 to Gupta et al. (hereinafter Gupta)

As per claim 7 and 12, A base station apparatus that transmits a speech packet and a normal packet other than the speech packet on a packet channel (Paragraph 0030, Elliott discloses that gateway site (claimed base station) transmits IP packets (claimed packet channel) which includes voice (claimed speech packet) and data (claimed normal packet) traffic),

the base station apparatus comprising: a detecting section that detects a type of a transmission packet (Paragraph 0941, Elliott discloses a data detection process to detect the media type of the call traffic. The media type of the call traffic can include voice and data,);

Elliott teaches when the detected type shows the speech packet and when the detected type shows the normal packet, transmitted on a packet channel (paragraph 0030, Elliott discloses that a detection process detects the media type of the call traffic. The media type can include voice and data)

Elliott does not disclose expressly: a delay section that adds a transmission delay to the speech packet, and that does not add a transmission delay to the normal packet

Gupta discloses, in Col. 1, lines 32-41, that in a VoIP system, a jitter buffer (claimed delay section) is typically required wherever a speech packet stream is terminated. Speech packets are queued (claimed delay) into the jitter buffer asynchronously, but the packets are removed from the jitter buffer synchronously, i.e. at fixed time intervals. Hence, jitter buffers will introduce an amount of delay to a speech packet. Note, the jitter buffer is used to absorb jitter of speech packets only and will not queue normal packets, thus the jitter buffers (claimed delay section) will not add a delay to the normal packets.

Elliott and Gupta are analogous art because they both are from the same field of endeavor, specifically; both references deal with voice over packet systems.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the system of Elliott by introducing a delay to speech packets via a jitter buffer as suggested by Gupta.

The suggestion/motivation for doing so would have been to ensure reliable communication of voice packets by minimizing out of sequence packets due to packet delay in the network (Col. 1, lines 21-31, Gupta)

Therefore, it would have been obvious to combine Gupta with Elliott for the benefit of ensuring reliable communication of voice packets to obtain the invention as specified in claim 1

As per claim 8, the base station apparatus according to claim 7, wherein the speech packet comprises a VoIP packet (Paragraph 0520, Elliott discloses a VoIP network architecture)

and the normal packet comprises an IP packet (Paragraph 0030, Elliott discloses that the data network routes internet protocol (IP) packets for transmission of voice and data traffic).

As per claim 9, the base station apparatus according to claim 7, wherein the detecting section detects the type based on a protocol or a flag in a header of the transmission packet (Paragraph 1047, Elliott discloses that Real Time Protocol (claimed protocol) adds a time stamp (claimed flag) and a header that distinguishes whether an IP packet is data or voice).

As per claim 10, the base station apparatus according to claim 7, wherein the detecting section detects the type based on a generation period of the transmission packet (RTP adds a time stamp (claimed generation period) and a header that distinguishes whether an IP packet is data or voice).

As per claim 11, the base station apparatus according to claim 7, wherein the delay section adds a transmission delay to the speech packet (Col. 1, lines 32-41, that in a VoIP system, a jitter buffer (claimed delay section) is typically required wherever a speech packet stream is terminated. Speech packets are queued (claimed delay) into the jitter buffer asynchronously, but the packets are removed from the jitter buffer synchronously, i.e. at fixed time intervals. Hence, jitter buffers will introduce an amount of delay to a speech packet.)

according to a priority of a communication terminal apparatus receiving the speech packet (Paragraph 1040, Elliott discloses that resource reservation protocols can be used to

operate on a per-connection basis in a network to elevate the priority of a given user temporarily. RSVP runs end to end to communicate application requirements for special handling.).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yosief Berhane whose telephone number is (571) 270-7164. The examiner can normally be reached at 9:00-6:00 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached at 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/YOSIEF BERHANE/
Examiner, Art Unit 2419

/Wing F. Chan/

Supervisory Patent Examiner, Art Unit 2419

3/29/09